

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOKIA CORPORATION and  
NOKIA, INC.,

Plaintiffs,

V.

INTERDIGITAL COMMUNICATIONS  
CORPORATION and INTERDIGITAL  
TECHNOLOGY CORPORATION,

Defendants.

C. A. No. 05-16-JJF

## JURY TRIAL DEMANDED

**PUBLIC VERSION**

## DEFENDANTS' MOTION FOR LEAVE TO AMEND

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Dated: February 1, 2007  
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776574/28840

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOKIA CORPORATION and	)	
NOKIA, INC.,	)	
	)	C. A. No. 05-16-JJF
Plaintiffs,	)	
	)	
v.	)	<b>JURY TRIAL DEMANDED</b>
	)	
INTERDIGITAL COMMUNICATIONS	)	<b>PUBLIC VERSION</b>
CORPORATION and INTERDIGITAL	)	
TECHNOLOGY CORPORATION,	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION FOR LEAVE TO AMEND**

Pursuant to Federal Rule of Civil Procedure 15(a) and D. Del. LR 15.1, Defendants InterDigital Communications Corporation and InterDigital Technology Corporation's ("InterDigital") move for leave to amend and file Defendants' First Amended Answer and Original Counterclaim against Plaintiffs Nokia Corporation and Nokia, Inc. ("Nokia") to plead additional affirmative defenses and to assert counterclaims for violation of the Lanham Act and several state common law claims.

This motion is filed subject to, and without waiver of the requests for relief set forth in InterDigital's Motion to Compel Arbitration and Stay Litigation Pending Completion of Arbitration (D.I. 75-77) and Motion for Leave to File Motion for Summary Judgment (D.I. 86). InterDigital continues to strongly believe that the underlying proposed motion for summary judgment is proper and that Nokia's claims should be dismissed as a matter of law. In fact, discovery has recently revealed that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

To the extent any counterclaims sought to be added herein by InterDigital are similar to Nokia's claims or inconsistent with the motion for summary judgment, InterDigital is compelled to assert such claims now in accordance with the Court's Scheduling Order. The assertion of such claims is done subject to the requested motion for summary judgment, the Court's ruling on the legal issues raised therein, and is not a waiver of InterDigital's prior position thereon or its ability to challenge Nokia's requested amendment pursuant to Rule 12 or otherwise.

Importantly, Nokia has previously conceded that InterDigital's motion for leave should be granted. In its Reply in Support of Motion for Extension of Discovery Deadline and Motion for Leave to Amend Complaint, Nokia expressly states that InterDigital has the right to assert new affirmative defenses and file a counterclaim. D.I. 141, p. 2 n.1. Additional grounds for this motion are set forth in InterDigital's Opening Brief in Support of Motion for Leave to File Amended Answer and Original Counterclaim, filed herewith.

Pursuant to D. Del. LR 15.1, attached hereto as Exhibit B is a copy of InterDigital's proposed Amended Answer and Original Counterclaim<sup>1</sup>. InterDigital also attaches as Exhibit C a black-lined version of the proposed pleading in accordance with the Court's Local Rules. A proposed form of Order and a 7.1.1 Certification are attached hereto as Exhibits D and E, respectively

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<sup>1</sup> It should be noted that the proposed amended answer is in response to the Original Complaint. If Nokia is allowed to amend its Complaint, a new answer responding to these new claims will be necessary.

In the event that the Court denies both Nokia and InterDigital's leave to amend the Original Complaint and assert an Original Counterclaim, InterDigital requests that it still be permitted to amend its current answer to the Original Complaint to assert the additional affirmative defense of unclean hands.

InterDigital respectfully requests that its motion for leave to amend be granted. InterDigital further requests such additional relief, general and special, at law or in equity, to which it may show itself justly entitled.

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT  
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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on February 7, 2007, the attached document was hand delivered to the following person(s) and was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading:

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I hereby certify that on February 7, 2007, I have Electronically Mailed the documents to the following:

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